

## **REMARKS**

### **Status of the Claims**

Claims 93, 95-98 and 105-130 are currently pending in the application. Of these, claims 93, 95-98 and 105-116 have been withdrawn from consideration and are subject to restriction and/or election.

Claims 117-122 and 124-129 are rejected and claims 118-122 and 127-130 are objected to. Claims 118-122 and 127-130 are objected to.

Claims 117, 118, 120 and 121 are currently amended. Claims 130-134 are added. Upon entry of the amendments, claims 117-122 and 131-134 will be pending in the case.

### **Double Patenting**

In anticipation that claim 118 will be found allowable, Applicants have canceled claim 130 in view of a potential double patenting rejection as being a substantial duplicate of claim 118.

### **Objection to claims 120-123 under 37 CFR 1.75(c)**

Claim 120 is objected to under 37 CFR 1.75(c) as improper in form with respect to multiple dependent claims. Applicants submit that amended claim 120 cures this defect and that claims 121 and 122 are properly dependent.

Claims 118-122 and 127-130 are objected for failing to further limit the subject matter and therefore being of improper dependent form. Applicants believe that the amendments to claims 117, 118, 120 and the cancellation of claims 124-130 have addressed this issue.

**Rejection under 35 USC §112**

Claims 124-129 are rejected under 35 U.S.C. §112, first paragraph as failing to comply with written description requirements, in particular that support for the indicated substitutions in the amino acid sequence are not found in the disclosure as filed, thereby raising an issue of new matter.

Applicants submit that cancellation of claims 124-129 renders any issue of new matter moot at this time; however, Applicants respectfully traverse the Action's rejection on this basis and reserve the right to pursue protection for the claimed compositions at an appropriate future time.

Claims 117-122 and 127-130 are rejected under 35 U.S.C. §112, second paragraph as indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. The Action has taken the position that "consistently essentially of..." does not allow an amino acid substitution in a claimed amino acid sequence. The Action further indicates that to make equivalent substitutions would require a specific definition of meaning in the application, even though the accepted meaning is "the specified materials or steps 'and those that do not materially affect the basic and novel characteristic(s)' of the claimed invention." Applicants respectfully disagree because it is quite clear from the disclosure as filed that His and Arg at position 9 in SEQ ID NO:5 are equivalent in basic and novel characteristics, as indicated from source, sequence length and properties. However, in the interest of expediting prosecution, Applicants have amended the claims to stand in independent form.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

**CONCLUSION**

Applicants submit that claims 117-122 and 131-134 as currently presented are in condition for allowance. Should any issues remain or should the Examiner believe that a telephone conference with Applicants' attorney would be helpful in expediting

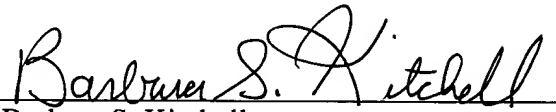
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prosecution of this application, the Examiner is invited to contact the undersigned at the telephone number shown below.

Respectfully submitted,

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